

Introduced: 2/18/80
Referred: Judiciary

1 IN THE HOUSE

BY PARR

2 HOUSE BILL NO. 869

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to claims of the state; and providing
7 for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. LEGISLATIVE PURPOSE. The purpose of this Act is to require
10 departments and agencies of the state to cooperate in identifying debtors who
11 owe money to the state and who also qualify for payments from the state. It
12 is the intent of this Act that procedures be established to set off against a
13 payment from the state the amount of the debt owed to the state.

14 * Sec. 2. AS 44 is amended by adding a new chapter to read:

15 CHAPTER 78. SETOFF OF CLAIMS OF THE STATE.

16 Sec. 44.78.010. PROCEDURES REQUIRED. Each claimant agency of the
17 state shall submit claimed debt to the department for collection under
18 the procedures established in this chapter except when

19 (1) the agency is advised by the attorney general not to
20 submit a claim because the validity of the claimed debt is in dispute;

21 (2) an alternative remedy is pending and is believed to be
22 adequate; or

23 (3) the collection attempt would result in a loss of federal
24 funding.

25 Sec. 44.78.020. IDENTIFYING INFORMATION. A claimant agency shall
26 obtain the full name, the social security number or other identifying
27 number when appropriate, the resident address and mailing address, and
28 any other identifying information required under regulations of the
29 commissioner from a person for whom the claimant agency provides a

1 service or transacts business and who may become a debtor under this
2 chapter.

3 Sec. 44.78.030. MINIMUM SUM COLLECTIBLE. A claimant agency may
4 not use the procedures established under this chapter unless both the
5 claimed debt and the refund amount to at least \$100.

6 Sec. 44.78.040. COLLECTIONS THROUGH SETOFF. The commissioner
7 shall render assistance in the collection of a delinquent account or
8 debt owed to a claimant agency by setting off a refund due the debtor
9 from the department by the sum certified by the claimant agency as due
10 and owing.

11 Sec. 44.78.050. PROCEDURE FOR SETOFF. (a) A claimant agency
12 attempting collection of a claimed debt through setoff shall notify the
13 commissioner in writing and provide the commissioner with information
14 adequate to identify the debtor whose refund is sought to be set off.

15 (b) The notice to the commissioner must occur before a date speci-
16 fied by the commissioner in the year preceding the calendar year during
17 which the refund is expected to be paid. The notice under (a) of this
18 section is effective only for a claim against a refund that would be
19 made in the calendar year after the year in which notice is given to the
20 commissioner.

21 (c) The commissioner shall determine whether the debtor is likely
22 to be entitled to a refund of \$100 or more. On determination by the
23 commissioner that a debtor qualifies for a refund of \$100 or more, the
24 department shall notify the claimant agency that a refund is pending,
25 specify its amount, and indicate the address of the debtor reflected on
26 the income tax return.

27 Sec. 44.78.060. NOTICE OF INTENT TO SET OFF. (a) The claimant
28 agency, on notification under AS 44.78.060 that a debtor is entitled to
29 a refund, shall within 10 days send written notice to the debtor of its

1 assertion of a claim against the refund. The claimant agency shall
2 provide a copy of this notice to the commissioner.

3 (b) If the commissioner receives a copy of the notice sent under
4 (a) of this section within 30 days of the department's notice to the
5 claimant agency under AS 44.78.050(c), the commissioner may not issue a
6 refund to the debtor.

7 (c) The contents of the notice to the debtor shall clearly set out

8 (1) the basis for the claim of the agency;

9 (2) the claimant agency's intention to apply the refund
10 against the claimed debt;

11 (3) the right of the debtor to give written notice of intent
12 to contest the validity of the claimed debt at a hearing before the
13 claimant agency within 30 days of the date of the mailing of the notice;

14 (4) the mailing address to which the application for the
15 hearing must be sent; and

16 (5) the fact that failure to apply for a hearing in writing
17 within 30 days constitutes a waiver of the opportunity to contest the
18 claimed debt and a consent to the setoff by default.

19 (d) A written application by the debtor for a hearing is effective
20 on mailing the application postage prepaid and properly addressed to the
21 claimant agency.

22 Sec. 44.78.070. HEARING PROCEDURES. (a) If a claimant agency
23 receives a written application for a hearing under AS 44.78.060, it
24 shall grant a hearing under the Administrative Procedure Act (AS 44.62)
25 to determine the validity of the claimed debt. Whether the amount
26 claimed as due and owing is correct shall also be determined at the
27 hearing.

28 (b) Efforts to collect the claimed debt shall be deferred pending
29 a final decision under (a) of this section.

1 Sec. 44.78.080. CERTIFICATION OF DEBT. (a) Within 20 days of a
2 final determination under AS 44.78.070 favorable to the claimant agency,
3 the claimant agency shall certify the debt determined to be due and
4 owing to the commissioner. If no certification is made within the
5 20-day period, the commissioner may issue the refund.

6 (b) On receipt by the commissioner of the decision under (a) of
7 this section, the commissioner shall transfer the amounts determined to
8 be due under the final decision issued under AS 44.78.070 to the claimant
9 agency and refund any remaining money to the debtor.

10 Sec. 44.78.090. PRIORITIES. Priority in multiple claims to re-
11 funds allowed to be set off under this chapter shall be in the order in
12 time a claimant agency has notified the commissioner under AS 44.78.-
13 050(a). The department has priority over other claimant agencies when
14 it has a claim against a refund.

15 Sec. 44.78.100. REGULATIONS. The commissioner may adopt regula-
16 tions under the Administrative Procedure Act (AS 44.62) to implement
17 this chapter.

18 Sec. 44.78.110. ADDITIONAL REMEDIES. The remedy established under
19 this chapter is in addition to any other remedy available by law.

20 Sec. 44.78.120. DEFINITIONS. As used in this chapter,

21 (1) "claimant agency" means a department or agency of the
22 executive or judicial branch of the state government which believes that
23 a debt is owed to it by the debtor;

24 (2) "claimed debt" means a sum of money due by a certain and
25 express agreement or by operation of law which a claimant agency indi-
26 cates is owed to it by the debtor;

27 (3) "commissioner" means the commissioner of revenue;

28 (4) "debtor" means a person owing money or having a delin-
29 quent account with a claimant agency which obligation has not been

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adjudicated as satisfied by a judgment of court, set aside by a judgment of court, or discharged in bankruptcy;

(5) "department" means the Department of Revenue;

(6) "refund" means a claim for refund under AS 43.20.

* Sec. 3. This Act takes effect July 1, 1980.